

Benton Gene Baskin, I/M #52888  
Hutchinson Correctional Facility East Unit - E2/#271  
P.O. Box 1568  
Hutchinson, Kansas 67504  
Phone: (620)-625-7295  
Fax: (620)-728-3473  
E-mail: [www.gettingout.com](http://www.gettingout.com)  
Plaintiff-Pro se

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<input type="checkbox"/> RECEIVED	<input type="checkbox"/> COPY
SEP 05 2023	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY _____	DEPUTY

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Benton Gene Baskin,  
Plaintiff,

v.

Todd Thomas, et al.,  
Defendants.

NO. CV-21-01890-PHX-SPL (JFM)

PLAINTIFF BASKIN'S  
RESPONSE TO COURT'S ORDER  
AND JUDGMENT OF DISMISSAL  
IN A CIVIL CASE

Plaintiff Benton Gene Baskin, pro se, respectfully responds to Court's Order (Doc. 45). Moves the Court to vacate the judgment of dismissal of his pro se civil rights action pursuant to 42 U.S.C. § 1983 (Doc. 46). Additionally Baskin request the Court to reopen the case and hear the timely filed Response to Court Order to Show Cause why his pro se civil rights action pursuant to 42 U.S.C. § 1983 should be transferred to the District of Kansas instead of dismissed, on the merits and under the prison mailbox rule. (Doc. 40).

In support of this Motion, Plaintiff Baskin, relies upon the memorandum of points and authorities set forth below.

I. MEMORANDUM OF POINTS AND AUTHORITIES

Federal Rule of Civil Procedure 6(b)(1)(B) permits a party to extend a deadline after it's expiration upon showing of "excusable neglect". The standard

to be applied by a Court under FRPC 6(b)(1)(B) is a liberal one in order to "effectuate the general purpose of seeing that cases are tried on the merits".

Ahanehian v. Xenon Pictures, Inc., 624 F.3d 1253, 1258-59 (9th Cir. 2010). "Good cause is a non-rigorous standard that has been construed broadly across procedural and statutory contexts". Id at 1259.

Plaintiff shows the Court that:

1. The Plaintiff's response to Court order to show cause why his pro se civil rights action pursuant to 42 U.S.C. § 1983 should be transferred to the district of Kansas, was placed in the KDOC HCF Internal mail system for mailing on Friday August 18th, 2023.

2. KDOC HCF Corrections Counselor I (CCI) Ms. Robbin L. Hurt, signed the KDOC Account Withdrawal Request (AWR) on August 21, 2023, for mailing to the Court. See Attached Exhibit A.

3. Under the prison mailbox rule, a prisoner's filings are deemed "filed" at the time they are delivered to prison officials for mailing. See Stillman v. LaMarque, 319 F.3d 1199 (9th Cir. 2003).

## II. CONCLUSION

For these reasons Plaintiff Baskin, respectfully moves this Court to vacate the judgment of dismissal of his pro se civil rights action pursuant to 42 U.S.C. § 1983, and reopen the case to be tried on the merits.

DATED this 25th day of August, 2023.

BENTON GENE BASKIN

By Benton G. Baskin  
Benton Gene Baskin, I/M #52888  
Hutchinson Correctional Facility East  
P.O. Box 1568  
Hutchinson, Kansas 67504

Plaintiff-Pro se

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of August, 20 23, a true and correct copy of the above and foregoing Plaintiff Baskin's Response to Court's Order And Judgment of Dismissal In A Civil Case, was made by depositing the same in the United States Mail, postage prepaid addressed to the following:

Debra D. Lucas, Chief Executive  
District Court Executive/Court Clerk  
Sandra Day O'Connor U.S. Courthouse  
Suite 130  
401 West Washington Street SPC 1  
Phoenix, Arizona 85003-2118

Struck Love Bojanowski & Acedo, PLC  
Daniel P. Struck  
Dana M. Keene  
Courtney Lacaillade  
3100 West Ray Road, Suite 300  
Chandler, Arizona 85220  
Attorneys for Defendant Westbrook

Matthew L. Shoger, I.D. #28151  
Assistant Kansas Attorney General  
120 S.W. 10th Avenue, 2nd Floor  
Topeka, Kansas 66612-1597

Attorney for Defendants Diaz & Giaboian

Benton G. Baskin

Benton Gene Baskin, I/M #52888  
Plaintiff-Pro se

EXHIBIT A

KANSAS DEPARTMENT OF CORRECTIONS ACCOUNT WITHDRWAL REQUEST

EVIDENCING DATE PLAINTIFF BASKIN DELIVERED  
SHOW CAUSE TO PRISON OFFICIALS FOR MAILING

AND DATE CCI MS. ROBBIN L. HURT SENT ORDER TO SHOW CAUSE TO THE HCF MAIL ROOM



## Kansas Department of Corrections

## Account Withdrawal Request

(Complete One Request per Form)

Attach letter and addressed/stamped envelope when required

BASKIN, BENTON, G.

0052888

H.C.F. - EU

E2/#271

08/18/2023

Printed Name

Number

Facility

Unit/Cell Location

Date

Please pay the following and charge to my account:

**Outgoing Funds/Donations**

Payable To:

Name

Address

City, State, Zip

Purpose/Inmate Benefit Fund Group

Title of Publication\*

Frequency - (Circle One)

Yearly Monthly Weekly Daily Other

Number of Issues

Expiration Date

Publication Price

\*Book, Magazine or News Paper  
(Per IMPP 11-101)

\$

Check Amount

I request the use of Forced Savings as provided in IMPP 04-103, for:  
(Documentation Required)☐ Community Identification☐ Civil Filing, Transcript or Subpoena Fees☐ Reentry into the Community (Warden's Approval Required)

(To Be Completed by Mailroom)

**Postage** - (To Be Completed by Inmate)

MS. DEBRA D. LUCAS, COURT EXECUTIVE

To: SANDRA DAY O'CONNOR U.S. COURTHOUSE

Name SUITE 130

401 WEST WASHINGTON STREET, SPC 1

Address

PHOENIX, ARIZONA 85003-2118

City, State, Zip

ORDER TO SHOW CAUSE

Reason

\$

Postage Amount



Postage



Legal/Official Postage

(Per K.A.R. 44-12-601)



Certified

(Only if Funds are Available)

Verified By

Benton G. Baskin 08-18-23

Inmate Signature

Date

Request Carbon Copy

M. L. Lucas 08/18/23

Unit Team Approval

Date

Handicraft Approval (If Applicable)

Date

Religious Approval (If Applicable)

Date

Exception Approval

Date



Applies to Outgoing Funds Limit



Does Not Apply to Outgoing Funds Limit



Use of Forced Savings Approval as requested above

This withdrawal request is being returned for the following reason(s):

☐ Insufficient Funds  
☐ Signature Missing  
☐ Exceeds Spending Limit  
☐ Incentive Level  
☐ Envelope/Order/Stamp Missing  
☐ Unauthorized Per IMPP/KAR

☐ Payee Missing  
☐ Insufficient Address  
☐ Amount Missing  
☐ Name/Number - Do Not Match  
☐ Illegible Information  
☐ Other

Account Processor

Date Withdrawn

Acct. Use

## Kansas Department of Corrections

## Account Withdrawal Request

(Complete One Request per Form)

Attach letter and addressed/stamped envelope when required

E2-271 ✓

BASKIN, BENTON, G. 0052888 H.C.F. - EU E2/#271 08/18/2023  
 Printed Name Number Facility Unit/Cell Location Date

Please pay the following and charge to my account:

Outgoing Funds/Donations

Payable To:

Name

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Check Amount

Address

City, State, Zip

Purpose/Inmate Benefit Fund Group

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(Documentation Required)

- ☐ Community Identification  
☐ Civil Filing, Transcript or Subpoena Fees  
☐ Reentry Into the Community (Warden's Approval Required)

(To Be Completed by Mailroom)

Postage - (To Be Completed by Inmate)MS. DEBRA D. LUCAS, COURT EXECUTIVE  
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PHOENIX, ARIZONA 85003-2118

City, State, Zip

ORDER TO SHOW CAUSE

Reason

\$

2.55  
Postage Amount☐ Postage☒ Legal/Official Postage  
(Per K.A.R. 44-12-601)☐ Certified  
(Only if Funds are Available)

VI

Verified By

Benton G. Baskin 08-18-23  
Inmate Signature Date  
Request Carbon CopyM. L. H. C. F. 08/18/23  
Unit Team Approval Date

Handicraft Approval (If Applicable) Date

Religious Approval (If Applicable) Date

Exception Approval

Date

- ☐ Applies to Outgoing Funds Limit  
☐ Does Not Apply to Outgoing Funds Limit  
☐ Use of Forced Savings Approval as requested above

This withdrawal request is being returned for the following reason(s):

- Insufficient Funds  
 — Signature Missing  
 — Exceeds Spending Limit  
 — Incentive Level  
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 — Unauthorized Per IMPP/KAR  
 — Payee Missing  
 — Insufficient Address  
 — Amount Missing  
 — Name/Number - Do Not Match  
 — Illegible Information  
 — Other

Account Processor

Date Withdrawn

Acct. Use

1504a